

Maine Revised Statutes

Title 12: CONSERVATION

Chapter 929: WHITEWATER RAFTING HEADING: PL 2003, c. 414, Pt. A, §2 (new); Pt. D, §7 (aff); c. 614, §9 (aff)

§12907. COMMERCIAL WHITEWATER OUTFITTERS; LICENSE AND REQUIREMENTS

1. Requirement. Every commercial whitewater outfitter must have a commercial whitewater outfitter's license. An outfitter may not operate a commercial whitewater trip without a license. A person who violates this subsection commits a Class E crime.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Issuance; term. The commissioner may issue a commercial whitewater outfitter's license to conduct commercial whitewater trips. A license is issued for the calendar year.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2-A. Number of licenses. A commercial whitewater outfitter is allowed to possess up to 3 commercial whitewater outfitter's licenses on allocated rivers.

[2013, c. 245, §3 (NEW) .]

3. Insurance requirements. An outfitter shall carry liability insurance, in the minimum amounts established by the department by rule, covering the operation of whitewater trips and motor vehicles carrying passengers. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §325 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §325 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §325 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

4. Fee. The annual basic fee for a commercial whitewater outfitter's license must be set by the department and adjusted biennially by rule to reflect the actual cost of administering the license program. The fee for reissuance of a license is equal to the annual basic fee for a license.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Nonrenewal, suspension or revocation. A commercial whitewater outfitter's license is subject to nonrenewal, suspension or revocation for good cause shown, including, but not limited to, unsafe practices, falsifications of reports or serious or continued violation of this chapter, subject to Title 5, chapter 375.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

6. Sale of business; license. The following provisions govern the sale of an outfitter's business and treatment of the outfitter's license.

A. When a licensed outfitter's business is sold, the outfitter shall return the outfitter's commercial whitewater outfitter's license to the department.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. On application, the license must be reissued to the purchaser, as long as the purchaser meets the licensing requirements of the department and pays the license fee. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

C. A person may not profit on the return and reissuance of the license itself, but nothing in this chapter may be construed to prohibit profit on the sale of any of the assets of a business.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

D. The license is not an asset and is not transferable as part of a sale or transaction. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

E. The department may require an affidavit from the purchaser to aid in enforcement of this subsection. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §326 (RPR).]

7. Sale of business; allocations. The following provisions govern the sale of an outfitter's business and the treatment of allocations.

A. When a licensed outfitter's business is sold, the selling outfitter shall return to the department the selling outfitter's allocations or portions of the allocations subject to the sale.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. An outfitter who purchases the business of another outfitter whose commercial whitewater outfitter's license has been returned to the department as provided in subsection 6 has 60 days from the date of sale to submit an affidavit applying for the selling outfitter's allocation, ensuring that the level and quality of services of the selling outfitter will be maintained. On application to the department, allocations may be reissued to the purchaser, as long as the purchaser meets the licensing and allocation requirements of the department and pays the license and allocation fees. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

C. The allocations are not assets of a business. Allocations or portions of the allocations may be transferred, pursuant to this chapter, from a selling outfitter to one or more purchasers only if the selling outfitter's allocations or portions of the allocations subject to the sale are returned to the department. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

D. An outfitter may not receive more than the maximum allocations allowed under section 12913, subsection 3. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

E. When allocations are forfeited or when new allocations become available as a result of increases in the commercial use limits on an allocated river, the department shall sell those allocations at public auction to qualified recipients. Net proceeds from the sale of allocations must be paid to the Whitewater Rafting Fund established under section 10259. [2003, c. 655, Pt. B, §326 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §326 (RPR).]

8. Affiliated outfitters.

[2013, c. 245, §4 (RP).]

9. Limitation. This chapter does not revoke any right of passage or access created by statute, contract or operation of law or as creating any such right for any outfitter or any associates or customers of any outfitter upon the project or project works of any licensee of the Federal Energy Regulatory Commission, as the terms "project" and "project works" are defined in United States Code, Title 16, Section 796 (11) and (12), respectively.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §327 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B325-327 (AMD). 2003, c. 655, §B422 (AFF). 2013, c. 245, §§3, 4 (AMD).

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